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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,699	04/19/2004	Don McLemore	031312R019	9610
7590 09/29/2005 Smith, Gambrell & Russell 1850 M Street, N.W., Suite 800 Washington, DC 20036			EXAMINER GRAVINI, STEPHEN MICHAEL	
			ART UNIT 3749	PAPER NUMBER
DATE MAILED: 09/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/826,699	MCLEMORE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stephen Gravini	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,9-30,32,33 and 43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-30,32,33 and 43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                               |                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20050309</u> . | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 102***

Claim 43 is rejected under 35 U.S.C. 102(b) considered to be clearly anticipated by Wenker (US 6,234,162). On the face of that reference the step of providing a support stand is clearly shown by elements **30** or **40**, the step of providing a grill assembly having a collapsible leg assembly in a collapsed state is shown by any one of elements **50**, **38**, or **42** because each of those elements are collapsed to hold the provided grill assembly in a collapsed state, and inserting the collapsible leg assembly into the support stand and positioning said grill assembly so as to be supported by said support stand, wherein again elements **50**, **38**, or **42** clearly anticipate this feature because support stand **30** or **40** contains each of the claimed collapsible elements in a support condition.

#### ***Claim Rejections - 35 USC § 103***

Claims 1-7 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenker (US 6,234,162) in view of Miller (US 1,824,165). Wenker is considered to disclose the claimed invention comprising:

a support stand **30** or **40** having a grill coupling section **12**;

a grill assembly **28** releasably coupled with the coupling section of said support stand (please see figure 1 on the face of that primary reference and column 3 lines 5-10), and said grill assembly having a stand alone leg assembly which is received

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(originally claim recitation "supported" has been amended to presently claimed "received" which is considered to broaden the scope of the claimed invention since "received" encompasses a greater category of support, such as hanging, suspending, or dangling as seen in the secondary reference) by said support stand when said grill assembly and support stand are coupled. Wenker is also considered to disclose the claimed vertical coupled telescoping relationship at column 3 line 30 which extends into a reception cavity formed in the support stand as shown in figure 2, a base pedestal section with a greater maximal cross section than its stem section also shown in figure 2, an upper leg assembly portion radially inward of a peripheral portion of its projection at column 3 line 41, and leg assembly is collapsible and expandable between a collapsed state wherein all leg assembly components are radially internal of said peripheral portion of the projection to an expanded state wherein said leg assembly extends radially external to said peripheral portion of said projection including an expandable leg set linkage assembly for a sliding arrangement at column 3 line 35. .

Miller, another cooking apparatus, is considered to disclose a stand alone leg assembly being collapsible and expandable between a collapsed state for support stand reception to an expanded state wherein said leg assembly extends radially outward into a stand alone grill support position in lines 24-52 of that reference. It would have been obvious to one skilled in the art to combine the teachings of Wenker with the stand alone leg assembly being collapsible and expandable between a collapsed state for support stand reception to an expanded state wherein said leg assembly extends radially outward into

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a stand alone grill support position, considered disclosed in Miller for the purpose of allowing a collapsible cooking assembly for complete dismantling for ease in shipment.

Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruble (US 4,553,525) in view of Miller. Claim 28 has been amended such that the scope has changed since the originally filed claim 31 includes, what is considered, less defining elements than is now incorporated into claim 28. Ruble is considered to disclose the claimed invention comprising:

- a grill assembly (please see column 2 line 16);

- a support stand **14** which supports said grill assembly for stand up cooking;

- coupling means **34**, **38**, or **40** for coupling said grill assembly and support stand, and said grill assembly includes a stand alone support assembly that is received by said support stand when said grill assembly is coupled to said support stand and provides a stand alone support to said grill assembly upon separation of said grill assembly from said support stand. Ruble is also considered to disclose the claimed lower height grill assembly than support stand as shown in figure 1, reception cavity also shown in figure 1 and element **34**, an upper leg assembly portion radially inward of a peripheral portion of its projection at column 3 line 41, and leg set linkage assembly collapsible and expandable with a sliding arrangement at column 2 line 15 through column 3 line 56. Ruble is considered to disclose the claimed invention except for stand alone support assembly has means for expansion and contraction, which includes a collapsible and expandable leg assembly with said leg assembly being received by an upper section of said support stand when in a collapsed state and providing stand alone capability in

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said grill assembly upon being detached from said support stand and placed in an expanded state. Miller, another cooking apparatus, is considered to disclose a stand alone support assembly has means for expansion and contraction, which includes a collapsible and expandable leg assembly with said leg assembly being received by an upper section of said support stand when in a collapsed state and providing stand alone capability in said grill assembly upon being detached from said support stand and placed in an expanded state in lines 24-52 of that reference. It would have been obvious to one skilled in the art to combine the teachings of Ruble with the stand alone support assembly has means for expansion and contraction, which includes a collapsible and expandable leg assembly with said leg assembly being received by an upper section of said support stand when in a collapsed state and providing stand alone capability in said grill assembly upon being detached from said support stand and placed in an expanded state, considered disclosed in Miller for the purpose of allowing a collapsible cooking assembly for complete dismantling for ease in shipment.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenker in view of Miller in further view of Howe (US 2,698,726). Wenker in view of Miller is considered to disclose the claimed invention, except for the claimed rotating plurality of legs. Howe, another grill stand, is considered to disclose a rotating plurality of legs at column 2 lines 16-36. It would have been obvious to one skilled in the art to combine the teachings of Wenker in view of Miller with the rotating plurality of legs, considered disclosed by Howe, for the purpose of giving the stand flexibility with respect to the space it occupies. Furthermore, Wenker in view of Howe is considered to obviate

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the claimed invention except for the claimed outward angle. It would have been an obvious matter of design choice to provide the claimed angle, since the teachings of Wenker in view of Howe, would provide substantially the same result, using substantially the same means or way, in substantially the same way regardless of the radial outward angle.

Claims 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenker in view of Miller in of Howe in further view of Winkel (US 5,944,008). Wenker in view of Howe is considered to obviate the claimed invention, as discussed above, except for the claimed sliding link members. Winkel, another cooking apparatus, is considered to disclose sliding link members at column 4 lines 11-49. It would have been obvious to one skilled in the art to combine the obvious teachings of Wenker in view of Miller in view of Howe with the sliding link members, considered disclosed by Winkel, for the purpose of giving the stand variable leg lengths and angles. Furthermore, Wenker in view of Miller in view of Howe in further view of Winkel is considered to obviate the claimed invention except for the claimed extended angle. It would have been an obvious matter of design choice to provide the claimed angle, since the teachings of Wenker in view of Miller in view of Howe in further view of Winkel, would provide substantially the same result, using substantially the same means or way, in substantially the same way regardless of the link member extended angle.

Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenker in view of Miller in of Howe in view of Winkel in further view of Stringer (US 2,392,011). Wenker in view of Miller in view of Howe in view of Winkel is considered to

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obviate the claimed invention, as discussed above, except for the claimed U-shaped legs. Stringer, another cooking apparatus, is considered to disclose U-shaped legs on the first page of the right column lines 25-35. It would have been obvious to one skilled in the art to combine the obvious teachings of Wenker in view of Miller in view of Howe in view of Winkel with the U-shaped legs, considered disclosed by Stringer, for the purpose of providing a channel leg arrangement for a cooking stand. Since claim 21 recites an intended use that the coupling means for coupling the grill assembly and support stand, it is considered that the sixth paragraph of 35 USC 112 is invoked. As such, the teachings of Wenker in view of Stringer can be construed to obviate the claimed invention with or without secondary references Howe or Winkel.

Claims 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenker in view of Miller in of Mejyr et al. (US 3,785,361). Wenker in view of Miller is considered to disclose the claimed invention, except for the claimed fuel supply line. Mejyr, another grill stand device, is considered to disclose a fuel supply line at column 2 lines 1-53. It would have been obvious to one skilled in the art to combine the teachings of Wenker in view of Miller with the fuel supply line, considered disclosed by Mejyr, for the purpose of allowing low pressure gas to provide a heat source for a cooking device.

Claims 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruble in view of Miller in further view of Howe (US 2,698,726). Ruble in view of Miller is considered to clearly anticipated the claimed invention, except for the claimed rotating plurality of legs. Howe, another grill stand, is considered to disclose a rotating plurality of legs at column 2 lines 16-36. It would have been obvious to one skilled in the art to



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combine the clearly anticipated teachings of Ruble in view of Miller with the rotating plurality of legs, considered disclosed by Howe, for the purpose of giving the stand flexibility with respect to the space it occupies.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-33 and 43 have been considered but are moot-in-part in view of the new grounds of rejection.

#### ***anticipation***

The clearly anticipation rejection is considered proper and maintained because the face of primary reference Wenker is considered to show each of the claimed process elements. Applicants argue that the structure of claimed invention is not viewed under the primary reference. The rejection above has been expanded to show that teach each process step of providing and inserting is disclosed on the face of that reference.

#### ***obviousness***

As discussed above each of the independently claimed inventions have been amended such that the scope of the claimed invention has changed over what was previously examined. The new grounds of rejection are considered proper and therefore final in light of applicants' amendments and arguments.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272

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4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571 272 4475. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SMG



September 26, 2005